

Appeal from decision of Utah State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. U MC 119832 through U MC 119839.

Appeal dismissed.

1. Appeals--Rules of Practice: Appeals: Dismissal--Rules of Practice: Appeals: Timely Filing

Notice of appeal must be filed within 30 days after the person taking the appeal is served with the decision from which the appeal is taken. The timely filing of a notice of appeal is jurisdictional and failure to file the appeal within the time allowed requires dismissal of the appeal.

APPEARANCES: Jay Edwin Collier, pro se and for the appellants. 1/

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

The Utah State Office, Bureau of Land Management (BLM), by decision of November 9, 1982, declared the unpatented New Gold Nos. 1 through 8 placer mining claims, U MC 119832 through U MC 119839, abandoned and void because no proof of labor or notice of intention to hold the claims was filed by October 22, 1979, as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976). The decision was served on appellants November 12, 1982, granting a right of appeal to this Board for a period of 30 days thereafter. No appeal was taken within the allotted time, but a notice of appeal was filed with BLM December 20, 1982.

[1] The regulations require that a notice of appeal must be filed within 30 days after the person taking the appeal is served with the decision

1/ It appears the claims are owned by Ina May Collier Johnson, Lena M. Collier, Palmer Collier, Don Collier, Wendell Collier, Mary Collier Snyder, Evah Collier Rhinehart Pendleton, and Jay Edwin Collier.

from which the appeal is taken. 43 CFR 4.411(a). This Board has held that the timely filing of a notice of appeal is required to establish the jurisdiction of the Board to review the decision below and that the failure to file the appeal within the time allowed mandates dismissal of the appeal. Nequoia Association, 60 IBLA 386 (1981), appeal pending (Nequoia Association v. Watt, No. 82-1084 (N.D. Utah filed Nov. 17, 1982)); Ilean Landis, 49 IBLA 59 (1980); Lavonne E. Grewell, 23 IBLA 190 (1976); see Browder v. Director, Illinois Department of Corrections, 434 U.S. 257, 264 (1978); Pressentin v. Seaton, 284 F.2d 195, 199 (D.C. Cir. 1960). Although the Board is generally reluctant to take any action which would preclude review of appeals on the merits, the purpose of the rule is to establish a definite time when administrative proceedings regarding a claim are at an end, in order to protect other parties to the proceedings and the public interest, and strict adherence to the rule is required. See Browder v. Director, Illinois Department of Corrections, *supra* at 264.

Since appellants did not file a notice of appeal of the November 9, 1982, decision within the 30-day period for appeal, the BLM decision became final, the mining claims are considered abandoned and void, and this proceeding must be dismissed.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal of Ina May Collier Johnson, *et al.* is dismissed.

Douglas E. Henriques

Administrative Judge

We concur:

Will A. Irwin
Administrative Judge

R. W. Mullen
Administrative Judge.

